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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/535,116

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Mark Gilmore Mears

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EXAMINER

ANDRAMUNO, FRANKLIN S

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

11/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/535,116	Applicant(s) MEARS ET AL.	
	Examiner FRANKLIN S. ANDRAMUNO	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/14/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 8, 10, 17, 19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fesler et al (US 5,917,887) in view of Blanchard (US 2002/0124266A1) in view of Burke et al (US 4,636,791). Hereinafter referred as Fesler, Blanchard, and Burke.

Regarding claims 1, 10, and 19, Fesler discloses a television signal receiving apparatus and method having an emergency alert function (**column 3 lines 4-10**), comprising: memory means for storing data associated with said emergency alert function (**column 5 lines 43-53**); tuning means for tuning signals including emergency alert signals associated with said emergency alert function (**column 2 lines 44-49**)

However, Fesler is silent in teaching the use of enabling a disabled apparatus. Blanchard teaches on (**page 3 paragraph (0029)**) upon receiving both the activation

signal and power from main power supply (230), main circuitry (240) is activated.

Hence, set-top-box switches from standby power mode to active power mode. Blanchard further teaches comparing data included in said emergency alert signals to data stored in said memory means to make a determination that said emergency alert function is activated **(page 1 paragraph (0009))**; switching said emergency alert function to an 'on' mode responsive to said determination that said emergency alert function is activated **(activating main power supply (550) on figure 5)**; and enabling said audio output device associated with said television signal receiving apparatus responsive to said determination that said emergency alert function is activated and to said determination that said audio output device has been disabled via said interface means **(It should be noted that figure 3 discloses on step (340) activating main power supply and as a result as disclosed on (page 1 paragraph (0010)) the set-top box receives externally generated information). Hence, if the set-top box is forced to be turned on, it will cause the STB volume to go up.**

Therefore, it would have been obvious at the time of the invention to include the use of enabling a disabled apparatus. This is a useful combination because the self-testing determines the reliability of the emergency response.

However, Fesler and Blanchard are silent in teaching determining whether said audio output device has been disabled via said interface means. Burke discloses on **(column 9 lines 41-48)** the audio muting relay (132) is utilized to perform conventional audio muting.

Therefore, it would have been obvious at the time of the invention to include the use of a control function to control devices triggered by an emergency unit. This is a useful combination because it allows devices to be turned on or off in case of an emergency.

Regarding claims 8, 17, and 26, Fesler discloses the apparatus and method of claims 5, 14, and 23, wherein said secondary device includes a television signal receiver **(LCD display (45) in figure 2)**.

4. Claims 2-7, 9, 11-16, 18, 20-25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fesler et al (US 5,917,887) in view of Blanchard (US 2002/0124266A1) in view of Burke et al (US 4,636,791) in view of Ganzer (5,121,430). Hereinafter referred as Fesler, Blanchard, Burke, and Ganzer.

Regarding claims 2, 11, and 20, Fersler discloses the apparatus and method of claims 1, 10, and 19, **(column 2 lines 44-49)**. **However, Fersler, Blanchard and Burke are silent in teaching** said disabled audio output device includes an internal speaker of said apparatus. Ganzer teaches on **(figure 3)** speaker (71) which is capable of producing sound.

Therefore, it would have been obvious at the time of the invention to include the use of an output audio device which includes speakers. This is a useful combination because the system is able to control the volume of an electronic device.

Regarding claims 3, 12, and 21, Ganzer discloses the apparatus and method of claims 1, 10, and 19, wherein said disabled audio output device is operatively connected to an audio output terminal of said apparatus **(Audio Toggle (69) in figure 3)**.

Regarding claims 4, 13, and 22, Ganzer discloses the apparatus and method of claims 1, 10, and 19, wherein said processing means further enables a first alert output via said audio output device responsive to activation of said emergency alert function **(Alternative Broadcast Signal Input Circuitry (53) in figure 3)**.

Regarding claims 5, 14, and 23, Ganzer discloses the apparatus and method of claims 4, 13, and 22, wherein said processing means further enables a second alert output via a secondary device responsive to activation of said emergency alert function **(User Set Alternative Alert Select (58) in figure 3)**.

Regarding claims 6, 15, and 24, Ganzer discloses the apparatus and method of claims 5, 14, and 23, wherein said secondary device includes a telephone **(column 3 lines 21)**.

Regarding claims 7, 16, and 25, Ganzer discloses the apparatus and method of claims 5, 14, and 23, wherein said secondary device includes a computer **(Alert Computer (11) in figure 2)**.

Regarding claims 9, 18, and 27, Ganzer discloses the apparatus and method of claims 5, 14, and 23, wherein said secondary device includes a visual output device **(Alarm (6) in figure 1)**.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKLIN S. ANDRAMUNO whose telephone number is (571)270-3004. The examiner can normally be reached on Mon-Thurs (7:30am - 5:00pm) alternate Fri off (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571)272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2424

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art
Unit 2424